IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1572 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT, RANGE FORESTOFFICER, (EXTENSION DIVISION)
Versus
YUNUSKHAN GULABKHAN PATHAN C/O GR THAKER,

Appearance:
MR RV DESAI, AGP for Petitioner
MR MURALI N DEVNANI for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 03/05/2001

ORAL JUDGEMENT

Heard Shri R.V.Desai, learned AGP for the petitioner and Shri Murli N Devnani for the Respondents.

2. The petitioner, the State of Gujarat through Range Forest Officer, District Junagadh has, challenged

through this petition the impugned award of the Labour Court Junagadh rendered on 14.6.1999, Annexure-C. The impugned award has been challenged on many grounds mentioned in the petition. However, at the time of argument, Shri Desai, learned AGP relies upon the latest pronouncement of the Supreme Court in Civil Appeal No. 1684 of 1998, State of Gujarat & Others Vs. Ratan Singh Nursing Parmar, decided on 31.1.2001 and contends that Forest department is not an industry and, it has been so held by the Apex Court. He has further relied upon this case in support of his contention that since Forest department is not an industry, the dispute raised by the respondent before the Labour Court Junagadh cannot be said to be industrial dispute, hence the award is illegal and invalid as well as without jurisdiction. It has been held by the Apex Court in this case that ordinarily the department of the Government cannot be held to be an industry and rather it is a part of sovereign function. It has further been held by the Apex Court that the forest department cannot be held to be an industry so that the provisions of Section 25(F) of the Act cannot have any application. since, this is the latest verdict of the Apex Court in a case from the Division Bench pronouncement of the Gujarat High Court, there remains little scope for going beyond this judgement. If the Forest department is not an industry, the impugned award becomes illegal and without jurisdiction.

2. In the result, the petition succeeds and is hereby allowed. The impugned award, Annexure-C is quashed and set-aside. No order as to costs.

(D.C.Srivastava, J)

Jayanti*